

Application Serial No. : 10/064,416
Applicants : Thomas G. Topolski
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REMARKS

The amendments and remarks presented herein are believed to be fully responsive to the recent Office Action. Reconsideration is requested.

Disposition of Claims.

Claims 1-32 were pending in the application. Claims 2, 4, 19, 31 and 32 have been cancelled herein.

Claim Rejections – 35 U.S.C. § 112.

Claims 12 and 13 were rejected under 35 U.S.C. § 112, second paragraph, as having insufficient antecedent basis for terms used in these claims. Claims 12 and 13, as well as 27 and 28, are amended herein in order to provide proper antecedent basis. Accordingly, the rejection has been overcome. Withdrawal is requested.

Claims Rejections – 35 U.S.C. § 102.

Claim 31 is rejected under 35 U.S.C. § 102(b) as being anticipated by Hamblin. Claim 32 is rejected under 35 U.S.C. § 102(b) as being anticipated by Lerro. The rejection is traversed. Without acquiescing in the rejections, Applicant cancelled claims 31 and 32 herein in order to expedite prosecution.

Claim Rejections – 35 U.S.C. § 103.

Claims 1-9, 14-24, 29 and 30 were rejected as being unpatentable over Lerro in view of Hamblin. Claims 10, 11, 25 and 26 were rejected as being unpatentable over Lerro in view of Hamblin and further in view of Lillo. Claims 12, 13, 27 and 28 were rejected as being unpatentable over Lerro in view of Hamblin and further in view of Brom.

The rejections are traversed. In order to expedite prosecution, Applicant submits herein an amended claim 1 as follows:

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1. A swim stroke trainer apparatus, comprising:
 - a forearm paddle adapted to be connected with a swimmer's forearm, said forearm paddle including a fin configured to convert generally forward motion into a generally downward force thereby promoting a downward motion of the hand and forearm, said forearm paddle including a hand portion contacting a swimmer's hand and a forearm portion contacting a swimmer's forearm to limit motion between the user's hand and forearm; and
 - a bicep/tricep float adapted to be connected with a swimmer's upper arm, said bicep/tricep float promoting an elevated elbow.

The undersigned wishes to express his gratitude to Examiner Fernstrom for the helpful and courteous interview granted to the undersigned attorney at the Examiner's office on September 24, 2003. At the interview, Applicant was provided the ability to demonstrate a forearm paddle, that is a portion of the invention, and to describe its operation. Applicant also proposed that claim 1 would be amended by combining the subject matter of claims 2 and 4 therein. It was also agreed that Examiner Fernstrom would favorably consider claim 1 amended in this manner. Claim 16, the other remaining independent claim, has also been amended in a similar manner.

Turning to the rejection of claims over Lerro in view of Hamblin, Lerro is directed to a swimming instructional device which is a combination of floatation and body positioning members comprising, in general, body joint positioning means, which is adapted to maintain a particular body joint – the ankle/foot joint, knee joint, elbow joint or wrist/hand joint – in the proper relative position or angular alignment for optimum swimming efficiency while simultaneously providing sufficient buoyancy to float the body joint to the surface of the water through floatation means (column 3, lines 25-32). It is submitted that Lerro does not disclose, teach or suggest the invention as defined in claims 1 and 16 including, by way of example, a forearm paddle including a fin configured to convert generally forward motion

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into a generally downward force thereby promoting a downward motion of the hand and forearm. It is submitted that Hamblin does not make up for that which is absent in Lerro. Hamblin is directed to an articulated aquatic flipper, which is automatically extended from a folded-return stroke position, as illustrated in Fig. 3, to an extended swimming position, as shown in Fig. 2 (column 3, lines 34-56). The purpose is to afford an area of reaction surface sufficient for effective swimming (column 1, lines 32-35). It is submitted that Hamblin is not an analogous art. It is directed to a flipper, not a swim stroke training apparatus. Accordingly, the combination is not motivated by any teaching in the art. Moreover, it is submitted that Hamblin teaches away from the present invention as defined in claims 1 and 16. In particular, Hamblin provides an aquatic flipper which enhances the action of the wrist and hands. In contrast, the invention as defined in claims 1 and 16 induces the swimmer to propel the forearm, rather than the hand, during the catch phase. For these reasons, it is submitted that the rejection has been overcome. Withdrawal is requested.

With respect to the rejection including Lillo, it is observed that Lillo is made up of multiple float members. There is nothing in Lillo which corresponds to a forearm paddle as defined in claims 1 and 16. Even if float member 22 were to be considered a forearm paddle, there is nothing in Lillo which discloses, teaches, or suggests a fin configured to convert generally forward into a generally downward force thereby promoting a downward motion of the hand and forearm. Applicant submits that Lillo is not analogous art. Lillo is directed to a swimming aid and method of use and, therefore, there would not be any motivation to make the combination. Accordingly, it is submitted that the rejection has been overcome. Withdrawal is requested.

With respect to the rejection including Brom, it is submitted that Brom does not make up for the deficiencies in the other references. Even if there were to be motivation in the art for the combination, to which Applicant does not acquiesce, Brom does not disclose, teach or suggest a forearm paddle including a fin configured to convert generally forward motion into a generally downward force thereby promoting a downward motion of the hand and forearm. Accordingly, it is submitted that the rejection has been overcome. Withdrawal is requested.

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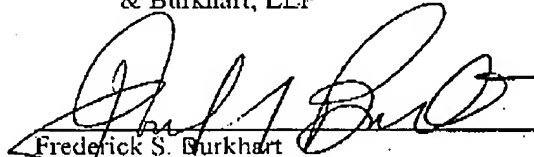
It is believed that the application is in a condition for allowance. A notice to that effect is earnestly solicited. If Examiner Fernstrom has any further questions or reservations, it is requested that Examiner Fernstrom call the undersigned attorney.

Respectfully submitted,

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By: Van Dyke, Gardner, Linn
& Burkhardt, LLP

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